

Department of Planning and Budget 2021 Fiscal Impact Statement

1. Bill Number: HB2306

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: VanValkenburg

3. Committee: Committee Referral Pending

4. Title: Virginia Public Procurement Act; contract clause requiring subcontractor reporting of payments.

5. Summary: Requires any contract awarded by a state agency or an agency of local government to require the contractor to include in each of its subcontracts a provision requiring the subcontractor to report to the contractor on a monthly basis (i) payroll records for all of the subcontractor's employees; (ii) records of all payments made by the subcontractor to individuals classified as independent contractors; and (iii) the total number of individuals on the jobsite, including the number classified as employees and the number classified as independent contractors. The bill requires the contractor to compile such information and submit it in a monthly report to the Department of Labor and Industry.

6. Budget Amendment Necessary: See Item 8.

7. Fiscal Impact Estimates: See Item 8.

8. Fiscal Implications: This legislation would create additional reporting requirements for all entities that have a direct contract ("contractors") with any state agency or agency of local government. Contractors would be required to report on a monthly basis for each subcontractor: (i) payroll records for all of the subcontractor's employees; (ii) records of all payments made by the subcontractor to individuals classified as independent contractors; and (iii) the total number of individuals on the jobsite, including the number classified as employees and the number classified as independent contractors.

As defined in Article 4, Chapter 43, Title 2.2, Code of Virginia, a subcontractor means "any entity that has a contract to supply labor or materials to the contractor to whom the contract was awarded or to any subcontractor in the performance of the work provided for in such contract."

According to the Department of General Services (DGS) this provision would apply to all vendors that the Commonwealth completes a purchase order with. Per DGS, more than 620,000 purchase orders were issued in the statewide procurement system, eVA, in fiscal year 2020, with a total spend by state agencies of \$4.7 billion. A total of 29,457 vendors received at least one purchase order in fiscal year 2020.

These provisions are likely to affect the pool of vendors competing for the Commonwealth's business, which is likely to affect the prices of goods and services. Contractors that opt to continue competing for contracts will likely incur additional costs if they have to begin collecting this type of payroll and employment information for each entity that they subcontract with to obtain labor or materials, and those additional costs will likely be passed on to the state agency or local public body customer. The additional costs to contractors will vary based on the contractors' individual situations and resources, and therefore it is indeterminate how much additional costs would be added to contracts as a result of this legislation.

The legislation does not specify whether state agencies are intended to verify this information. State agencies would likely require additional resources if the intent of the legislation is for state agencies to verify the information collected by the contractors. The legislation also requires the contractors to submit the data to the Department of Labor and Industry (DOLI) on a monthly basis but does not specify any further action to be taken by DOLI. Depending on the volume of data and the retention period, DOLI will likely incur additional data storage costs on its monthly information technology bill, which may require additional resources in the future. DOLI has not yet confirmed whether any other fiscal impacts are expected.

- 9. Specific Agency or Political Subdivisions Affected:** This bill as written applies to state agencies and local public bodies subject to the Virginia Public Procurement Act (VPPA). This bill does not apply to higher education institutions operating under Management Agreements and Memoranda of Understanding in the operational area of procurement (currently eleven Level III and Level II institutions). Additionally, the bill will not apply to local governments that have exempted themselves from the VPPA as authorized by Va. Code §2.2-4343 (9, 10, 11).

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is identical to HB1741.

Date: January 20, 2021
File: HB2306.docx